

Survey – Defendants - Private Antitrust Enforcement – English Courts/CAT

1. Does your law firm currently act for and/or advise **defendants** in private antitrust damages litigation in England and Wales?
 - a) Yes ☐ **If YES, please do respond to as many questions as you can, and return the form.**
 - b) No ☐ **If NO, please do return the survey form, ignoring the remaining questions.**
2. Roughly how many claims have you advised, or acted, on the **defence side** in the last 5 years, including those that are current?
Please do specify:
3. Who are the claimants in these actual or prospective claims? (*Please do rank them, with 1 being the highest volume of claims on behalf of a category of claimants*).
 - a) Consumers (including class representatives):
 - b) Larger Corporate Purchasers:
 - c) SMEs:
 - d) Other (please do specify):
4. In roughly how many of the cases in which you are advising or acting does the claimant have funding (so far as you are aware)?
 - a) none ☐
 - b) very few ☐
 - c) about half ☐
 - d) most ☐
 - e) all ☐
5. Of the antitrust damages claims on which you have advised or acted, and which have concluded in the last 5 years, what was the most common outcome?
 - a) Final judgment on the merits ☐
 - b) Settlement ☐
 - c) The claim being withdrawn. or not progressed, or discontinued ☐
6. Based on your experience of defending antitrust damages claims actually brought in the courts, roughly how much will a **typical defendant** pay in total fees in that defence up to settlement or judgment?
 - a) £750,000 or less ☐
 - b) £750,001 - £1,500,000 ☐
 - c) £1,500,001 – £5,000,000 ☐
 - d) £5,000,001 - £10,000,000 ☐
 - e) £10,000,001 - £20,000,000 ☐
 - f) £20,000,001 or over ☐
7. Which of the following stages of the litigation result in the most **defence costs**? (Please do rank them, *with 1 being the highest*).
 - a) Pre-action (i.e. before the claim is being issued):
 - b) Case management (i.e. after the claim has been issued and including disclosure):
 - c) Other pre-trial steps (i.e. witness and expert evidence preparation):
 - d) Trial:
 - e) Post-trial:
8. Roughly how many claims on which you have advised, or acted, in the last 5 years, have had an asserted amount of less than £50 million (if quantified) at the start?
 - a) none ☐
 - b) very few ☐
 - c) about half ☐
 - d) most ☐
 - e) all ☐

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9. Roughly how many claims on which you have advised, or acted, in the last 5 years, have had an asserted amount from £51 million to £100 million (if quantified) at the start?
- a) none ☐
 - b) very few ☐
 - c) about half ☐
 - d) most ☐
 - e) all ☐
10. Roughly how many claims on which you have advised, or acted, in the last 5 years, have had an asserted amount from £101 million to £250 million (if quantified) at the start?
- a) none ☐
 - b) very few ☐
 - c) about half ☐
 - d) most ☐
 - e) all ☐
11. Roughly how many claims on which you have advised, or acted, in the last 5 years, have had an asserted amount from £251 million to £500 million (if quantified) at the start?
- a) none ☐
 - b) very few ☐
 - c) about half ☐
 - d) most ☐
 - e) all ☐
12. Roughly how many claims on which you have advised, or acted, in the last 5 years, have had an asserted amount of more than £500 million (if quantified) at the start?
- a) none ☐
 - b) very few ☐
 - c) about half ☐
 - d) most ☐
 - e) all ☐
13. Of the claims on which you have advised or acted in the last 5 years, roughly what proportion proceeded to judgment?
- a) 10% or less ☐
 - b) 11% – 20% ☐
 - c) 21% - 35% ☐
 - d) 36% - 50% ☐
 - e) 50% - 75% ☐
 - f) 76% or above ☐
14. Of the claims on which you have advised or acted in the last 5 years, roughly what proportion have settled?
- a) 10% or less ☐
 - b) 11% – 20% ☐
 - c) 21% - 35% ☐
 - d) 36% - 50% ☐
 - e) 50% - 75% ☐
 - f) 76% or above ☐

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15. Of the claims on which you have advised or acted in the last 5 years, and which have settled, what relationship did the settlement amount paid (if any) have to the total amount originally claimed by the claimants? *Please specify, roughly, how many claims fall within each category below.*
- a) 10% or less ☐
 - b) 11% – 20% ☐
 - c) 21% - 35% ☐
 - d) 36% - 50% ☐
 - e) 50% - 75% ☐
 - f) 76% or above ☐
 - g) Other (please do specify):
16. Taking all of the settlements reached in the last 5 years, what would you say were the principal driving factors that caused the claim to settle, rather than go to trial and judgment? *(Please do rank them in order of priority - with 1 being the highest priority).*
- a) Perception of the strength of the claim and risks/uncertainty at trial:
 - b) The fact that liability was already established by a prior regulator's decision:
 - c) The likely unrecoverable costs in continuing the litigation:
 - d) Ongoing business relationship:
 - e) Other (please do specify):
17. Of the claims on which you are advising or acting and that have not settled, which are the factors that in your view are most hindering settlement? *(Please do rank the factors, in order of priority - with 1 being the highest).*
- a) Delay in judicial process:
 - b) Uncertainty in the substantive law:
 - c) The difficulty in quantifying damages:
 - d) Parallel proceedings which are pending abroad:
 - e) The risk of double jeopardy:
 - f) Concerns regarding having to pay adverse costs:
 - g) Other (please do specify):